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DISTRICT COURT OF GUAM
TERRITORY OF GUAM

JULIE BABAUTA SANTOS, *et al.*,
Plaintiffs,
vs.
FELIX A. CAMACHO, *et al.*,
Defendants.

CHARMAINE R. TORRES, *et al.*,
Plaintiffs,
vs.
GOVERNMENT OF GUAM, *et al.*,
Defendants.

MARY GRACE SIMPAO, *et al.*,
Plaintiffs,
vs.
GOVERNMENT OF GUAM,
Defendant,
vs.
FELIX P. CAMACHO, Governor of Guam,
Intervenor-Defendant.

Civil Case No. 04-00006

ORDER

Civil Case No. 04-00038

Civil Case No. 04-00049

1 The present issue before the court is whether the Plaintiffs' counsel should be permitted
2 to file their billing statements/time records *in camera* and/or under seal. The attorneys argue that
3 they should be permitted to file those records *in camera* and/or under seal because of the attorney-
4 client privilege. "The party asserting the attorney-client privilege has the burden of proving that
5 the privilege applies to a given set of documents or communications. To meet this burden, a party
6 must demonstrate that its documents [or communications] adhere to the essential elements of the
7 attorney-client privilege adopted by this court." *U.S. v. The Corporation*, 974 F.2d 1068, 1070 (9th
8 Cir.1992).

9 The attorneys argue that the records are confidential because they necessarily contain the
10 nature of the services provided. The government of Guam, argues that any privilege is now
11 "waived" because the issue in question concerns the "fees." *See Ideal Electronic Sec. Co., Inc. V.*
12 *Inter'l Fidelity Ins. Co.*, 129 F.3d 143, 151 (D.C. Cir. 1997) ("As a practical matter, the
13 reasonableness of any portion of the billing statement can only be determined by examining all
14 billing statements pertaining to the legal services provided as a whole."). The court agrees with
15 the government's position. The attorneys are requesting fees be paid from a class common fund
16 where the settling class consists of a significant number of individuals in the community. It seems
17 reasonable that the settling class should be permitted to review the billing statements or time
18 records to see what services were provided. In fact, Rule 23(h)(1)-(2) of the Federal Rules of Civil
19 Procedure provides for the class to be provided notice of the motion for fees and to be able to
20 object to the motion for fees. Clearly, for any objection to be meaningful, a class member would
21 have to know what the attorney is requesting in terms of fees for services provided.

22 In addition, the Objectors' attorneys assert that the government of Guam should not be
23 allowed to provide comment concerning the reasonableness of fees. However, this court is tasked
24 with determining the reasonableness of the fees requested. *See Fed. R. Civ. P. 23 (h)*. In light of
25 this mandate, the court will permit the government of Guam to provide its opinion as to the
26 reasonableness of the fees requested.

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1 Accordingly, the Objectors' Motion to Place Exhibits Under Seal is **DENIED**, and Mr. Perez
2 shall file unredacted billing statements no later than October 24, 2007.

3 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Oct 19, 2007